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IN THE

# Supreme Court of the United States

October Term, 1949.

Nos. 159 and 160 Misc.

No. 159 Misc.

JOHN ROBERT ATHERTON and HERMAN EDWARD BEHRE,
*Petitioners,*

*vs.*

UNITED STATES OF AMERICA.

No. 160 Misc.

GEORGE CALVIN EDWARDS, *et al.*,
*Petitioners,*

*vs.*

UNITED STATES OF AMERICA.

ON PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

**Memorandum of George A. Warmer, Superintendent of Los Angeles District, The Methodist Church; E. C. Farnham, Executive Secretary of Church Federation of Los Angeles, and Southern California Council of Protestant Churches; Nelson C. Dreier, Superintendent Congregational Conference of Southern California and the Southwest, Amici Curiae.**

The undersigned representatives of their respective church organizations respectfully urge upon this court that the Petition for Writs of Certiorari be granted.

**The Interest of Churches in the Issue.**

There is, of course, no unanimity of opinion among churches as to the position that should be taken with reference to conscientious objection and war. However, historically, the Church has always recognized the rights of conscience as fundamental to the development of democracy. Even the "non-peace" churches hold conscientious objectors in equal regard with those who bear arms. This recognition, it is felt, should be accorded in practice and not merely in theory.

It is because of this interest and because to the undersigned the above cases thus far represent a denial of the full recognition which should be afforded genuine religious conscientious belief, that this memorandum is filed. From the standpoint of religious freedom, the petition discloses a disregard of Congress' prohibition against military control that is shocking.

**Reasons for Granting the Writs.**

We appreciate that issues similar to or perhaps identical with those present in the instant cases have been presented to this court before and that certiorari has been denied. See, for example, *United States v. Brooks* (C. C. A. 2), 147 F. 2d 134, cert. den. 320 U. S. 813; *Roodenko v. United States* (C. C. A. 10), 147 F. 2d 752, cert. den. 324 U. S. 860; *U. S. ex rel. Zucker v. Osborne* (C. C. A. 2). 147 F. 2d 135, cert. den. 325 U. S. 881; *Kramer v. United States* (C. C. A. 6), 147 F. 2d 756, cert. den. 324 U. S. 878; *United States v. Gormly* (C. C. A. 7), 136 F. 2d

227, cert. den. 320 U. S. 753, reh. den. 320 U. S. 813; *Dingman v. United States* (C. C. A. 9), 156 F. 2d 148, cert. den. 329 U. S. 730, reh. den. 329 U. S. 831.

However, as this court many times has said, the denial of certiorari imports no expression of opinion on the merits (*Sunal v. Large*, 332 U. S. 174, 181; *House v. Mayo*, 324 U. S. 42, 48). Accordingly, we urge consideration again of the fundamental and far reaching issues raised by the petition. Now that the pressure of the actual war is over and the effect of the Civilian Public Service Camps may be reviewed in retrospect, it would be well that review be granted in order, at least, to consider the righting of what, to us, has been a grievous wrong which should not be permitted to become engrained in the law.

Respectfully submitted,

ROBERT R. RISSMAN,

*Counsel for George A. Warmer, Superintendent of Los Angeles District, The Methodist Church; E. C. Farnham, Executive Secretary of Church Federation of Los Angeles, and Southern California Council of Protestant Churches; Nelson C. Dreier, Superintendent Congregational Conference of Southern California and the Southwest, Amici Curiae.*